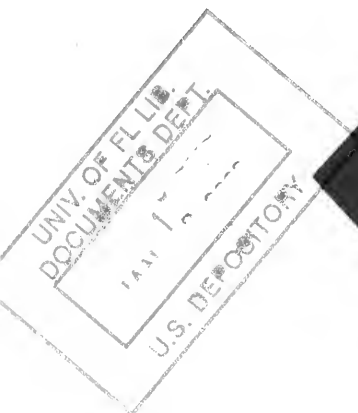


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***A Guide
To The***

**McNAMARA - O'HARA
SERVICE CONTRACT ACT
OF 1965**



UNITED STATES DEPARTMENT OF LABOR
W. Willard Wirtz, *Secretary*

WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS
Clarence T. Lundquist, *Administrator*

THE McNAMARA-O'HARA SERVICE CONTRACT ACT

of 1965

EFFECTIVE

JANUARY 20, 1966

is administered by the

Wage and Hour and Public Contracts Divisions

of the

United States Department of Labor

This Guide provides general information concerning the application of the Service Contract Act of 1965. It is not to be considered in the same light as official statements of position as contained in the regulations, interpretative bulletins and other such releases, formally adopted by the Divisions and published in the Federal Register. Copies of such publications may be obtained free from the Divisions' nearest office. A listing of offices is on page 5.

HANDY GUIDE

to the

Service Contract Act of 1965

GENERAL PROVISIONS

The McNamara-O'Hara Service Contract Act of 1965 applies generally to Government contracts, the principal purpose of which is to furnish services in the United States through the use of service employees. It is effective as to contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after January 20, 1966.

Contractors and subcontractors performing work under such contracts are required to observe minimum standards of compensation for employees employed in the contract work. Compensation in accordance with that prevailing in the locality and safe and sanitary working conditions are required for service employees engaged in work under contracts in excess of \$2,500.

The act applies to contracts to furnish services in any State, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, and Johnston Island.

SERVICE EMPLOYEES

As defined in the act, service employees include guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, or semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement. All such persons are included regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

MINIMUM WAGE FOR ALL COVERED CONTRACTS

Every contractor who enters into any contract with the Federal Government the principal purpose of which is to furnish services through the use of service employees and every subcontractor under such a contract is required to pay employees engaged in performing the contract work not less than the minimum wage specified under section 6(a) (1) of the Fair Labor Standards Act.

LABOR STANDARDS FOR COVERED CONTRACTS IN EXCESS OF \$2,500

Contractors and subcontractors performing work under any contract entered into by the United States or the District of Columbia in excess of \$2,500 which is subject to the act must observe the following additional requirements:

Minimum Wage

Service employees engaged in the performance of the contract or any subcontract thereunder shall be paid the applicable minimum monetary wage specified in the contract and in any bid specification therefor, which in no case shall be lower than the Fair Labor Standards Act minimum provided for all covered contracts. The act provides for determination by the Secretary of Labor or his authorized representative of such minimum monetary wages for the various classes of service employees in accordance with prevailing rates for such employees in the locality, and requires that they be specified in the contract and any bid specification therefor.

Fringe Benefits

Service employees engaged in the performance of the contract or any subcontract thereunder shall be furnished such fringe benefits as have been determined by the Secretary of Labor or his authorized representative to be prevailing for such employees in the locality and which are specified in the contract and any bid specification therefor as applicable to such employees.

As required by the act, provisions specifying fringe benefits to be furnished to a class or classes of service employees performing work on the contract will be included in the contract documents whenever the Secretary or his authorized representative determines the furnishing of benefits such as the following to be prevailing for such employees in the locality: Medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor.

The obligation of a contractor or subcontractor to furnish any specified fringe benefits may be discharged by furnishing any equivalent combinations of benefits, or by making equivalent or differential payments in cash, in accordance with regulations of the Administrator of the Wage and Hour and Public Contracts Divisions, Department of Labor.

Safe and Healthful Working Conditions

Contractors and subcontractors are obligated to assure that no part of the services covered by the act will be performed in buildings or surroundings or under working conditions, provided by or under the control or supervision of the contractor or any subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish the services.

Notice to Employees

The contractor or subcontractor must provide a service employee, when he commences work on a contract subject to the act, with a notice of the compensation required by the act or shall post such notice in a location where it may be seen by all employees performing on the contract, using such poster as may be provided by the Department of Labor.

Recordkeeping Requirements

The contractor or subcontractor must make, and maintain for a period of 3 years from the completion of the work, the following records for each service employee performing work under the contract :

- (1) Name and address.
- (2) Work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.
- (3) Daily and weekly hours so worked.
- (4) Any deductions, rebates, or refunds from the employee's total daily or weekly compensation.

These records shall be made available for inspection and transcription by authorized representatives of the Wage and Hour and Public Contracts Divisions.

Notice in Subcontracts

Each contractor under a contract subject to the act is required to insert clauses relating to the Service Contract Act in all his subcontracts, as prescribed by regulations of the Administrator.

EXEMPTIONS

The McNamara-O'Hara Service Contract Act of 1965 does not apply to the following:

- (1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;
- (2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act;

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect ;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934 ;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas ;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals ;

(7) Any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations ;

(8) Any services to be furnished outside the United States as defined in the act ; and

(9) Any contract exempted by the Secretary of Labor under section 4(b) of the act. This section authorizes the Secretary to provide such reasonable limitations, variations, tolerances, and exemptions to and from any or all provisions of the act as he may find necessary and proper in the public interest or to avoid serious impairment to the conduct of Government business.

VIOLATIONS AND PENALTIES

In the event of violations, the act authorizes the withholding of accrued payments due on the contract to the extent necessary to pay covered workers the difference between the wages and benefits required by the contract and those actually paid. The Government may also bring court action against the contractor, subcontractor, or surety to recover any remaining amount of the underpayment. In addition, the contract may be terminated because of violations and the contractor may be held liable for any resulting cost to the Government. The Government will not award another contract for 3 years to a person or firm responsible for violations, unless the Secretary of Labor recommends otherwise.

ENFORCEMENT

Authorized representatives of the WHPC Divisions investigate for compliance with the Service Contract Act. Anyone can request the Divisions' assistance if he thinks a firm is violating the act. Complaints, records, and other information from employers and employees are treated confidentially.

OTHER OBLIGATIONS

Observance of the labor standards of the Service Contract Act does not relieve the employer of any obligation he may have under any other laws or agreements providing for higher labor standards.

ASSISTANCE AVAILABLE

Whether contracts and particular employees are covered by the McNamara-O'Hara Service Contract Act depends on the facts in each case. If you want to know about the application of the law in a particular case, contact the nearest office of the WHPC Divisions. Give information on the name of the contractor, the Government agency that issued the contract, the contract number, the amount of the contract, what service the firm furnishes under the contract, the method and rate of pay, the hours of work, and any other details you think will be needed for an adequate reply.

WHERE INFORMATION CAN BE OBTAINED

Inquiries about the Fair Labor Standards Act, Walsh-Healey Public Contracts Act, McNamara-O'Hara Service Contract Act and their application will be answered by mail, telephone, or personal interview at any regional or field office of the Wage and Hour Public Contracts Divisions of the U.S. Department of Labor. These offices also supply publications free of charge.

State	Regional Office	Field Office
Alabama	Birmingham	Birmingham, Mobile, Montgomery.
Alaska	San Francisco, Calif	Anchorage.*
Arizona	San Francisco, Calif	Salt Lake City, Utah.
Arkansas	Birmingham, Ala	Little Rock.
California	San Francisco	Hollywood, Long Beach, Los Angeles, Oakland, Sacramento, San Fran- cisco, Whittier.
Colorado	Kansas City, Mo	Denver.
Connecticut	Boston, Mass	Hartford.
Delaware	Chambersburg, Pa	Philadelphia, Pa.
District of Columbia	Chambersburg, Pa	College Park, Md.
Florida	Atlanta, Ga	Jacksonville, Miami, North Miami, Tampa.
Georgia	Atlanta	Atlanta, Columbus, Hapeville, Savannah.
Hawaii	San Francisco, Calif	Honolulu.
Idaho	San Francisco, Calif	Portland, Oreg.
Illinois	Chicago	Chicago, Springfield.
Indiana	Chicago, Ill	Indianapolis, South Bend.
Iowa	Kansas City, Mo	Des Moines.
Kansas	Kansas City, Mo	Wichita.
Kentucky	Nashville, Tenn	Lexington, Louisville.
Louisiana	Birmingham, Ala	Baton Rouge, New Orleans, Shreveport.

* Field station.

State	Regional Office	Field Office
Maine.....	Boston, Mass.....	Portland.
Maryland.....	Chambersburg, Pa.....	Baltimore, College Park.
Massachusetts.....	Boston.....	Boston, Springfield.
Michigan.....	Cleveland, Ohio.....	Detroit, Grand Rapids.
Minnesota.....	Chicago, Ill.....	Minneapolis.
Mississippi.....	Birmingham, Ala.....	Jackson.
Missouri.....	Kansas City.....	Kansas City, St. Louis.
Montana.....	San Francisco, Calif.....	Seattle, Wash.
Nebraska.....	Kansas City, Mo.....	Omaha.
Nevada.....	San Francisco, Calif.....	Oakland, Calif.
New Hampshire.....	Boston, Mass.....	Manchester.
New Jersey.....	New York, N.Y.....	Newark, Paterson, Trenton.
New Mexico.....	Dallas, Tex.....	Albuquerque.
New York.....	New York.....	Bronx, Brooklyn, Buffalo, Hempstead, New York, Syracuse.
North Carolina.....	Atlanta, Ga.....	Charlotte, Greensboro, Raleigh.
North Dakota.....	Kansas City, Mo.....	Sioux Falls, S. Dak.
Ohio.....	Cleveland.....	Cincinnati, Cleveland, Columbus.
Oklahoma.....	Dallas, Tex.....	Oklahoma City, Tulsa.
Oregon.....	San Francisco, Calif.....	Portland.
Pennsylvania.....	Chambersburg.....	Harrisburg, McKeesport, Philadelphia, Pittsburg, Wilkes-Barre.
Rhode Island.....	Boston, Mass.....	Providence.
South Carolina.....	Atlanta, Ga.....	Columbia.
South Dakota.....	Kansas City, Mo.....	Sioux Falls.
Tennessee.....	Nashville.....	Knoxville, Memphis, Nashville.
Texas.....	Dallas.....	Corpus Christi, Dallas, El Paso, Fort Worth, Houston, San Antonio, Waco.
Utah.....	San Francisco, Calif.....	Salt Lake City.
Vermont.....	Boston, Mass.....	Springfield, Mass.
Virginia.....	Nashville, Tenn.....	Richmond, Roanoke.
Washington.....	San Francisco, Calif.....	Seattle.
West Virginia.....	Nashville, Tenn.....	Charleston, Clarksburg.
Wisconsin.....	Chicago, Ill.....	Madison, Milwaukee.
Wyoming.....	Kansas City, Mo.....	Denver, Colo.
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Puerto Rico.....	Santurce.....	Santurce, Mayaguez.
Virgin Islands.....	Santurce, P.R.....	
Guam.....	San Francisco, Calif.....	Honolulu, Hawaii.
Wake Island.....	San Francisco, Calif.....	Honolulu, Hawaii.
American Samoa.....	San Francisco, Calif.....	

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